



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 22-08 of the SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

WHEREAS, the Squaxin Island Tribal Council finds that it is important to ensure for its residents, institutions and businesses a sufficient supply of high-quality drinking water into the future; and

WHEREAS, a Wellhead Protection Code is essential towards helping the Tribe achieve this goal;

THEREFORE, BE IT RESOLVED, the Council hereby adopts the Wellhead Protection Code; and

BE IT FURTHER RESOLVED, the Tribal Council hereby adds Title 7.38 attached hereto, the Wellhead Protection Code, to the Squaxin Island Tribal Code; and

BE IT FURTHER RESOLVED, the Department of Community Development and Planning will ensure that the following activities are completed within Sanitary Control Areas established within 2 years of this Code's effective date:

1. Post "No Spray" signs;
2. Pave and slope surfaces away from the Tribal production wells, and away from any other existing wells during the period that the Tribal production wells are operative; and

3. Install drainage and protective barriers around the Tribal production wells to protect from vehicle damage, and around any other existing wells during the period that the Tribal production wells are operative; and
4. Little Creek Casino Resort will move dumpsters away from Tribal Production Well 2; and
5. Inventory all other wells and decommission them.

BE IT FURTHER RESOLVED, that while a Little Creek Casino Resort storage warehouse and overflow parking lot are located outside the Sanitary Control Area for each Tribal production well, they are within sensitive areas. Accordingly, the Department of Community Development and Planning will ensure that the following activities are completed within 2 years of this Code's effective date:

1. Wellhead protection signs are posted in this area that read "No Spray, No Drip, No Animal Waste."; and
2. A one-page simplified summary indicating what is prohibited by the Code is posted on the warehouse wall; and
3. No hazardous materials as defined in the Code are stored in the warehouse.

BE IT FURTHER RESOLVED, that notice of the Wellhead Protection Capture Zones shall be posted at the Tribe's wastewater treatment plant, and employees provided annual training about the Code.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 27 day of January, 2022, at which time a quorum was present and was passed by a vote of 6 for and 0 against, with 0 abstentions.



Kristopher K Peters (Jan 28, 2022 15:34 PST)

Kris Peters, Chairman



Patrick Braese (Jan 28, 2022 15:37 PST)

Attested by: Patrick Braese, Secretary



Charlene Krise (Jan 28, 2022 18:11 PST)

Charlene Krise, Vice Chairman

CHAPTER 7.38: WELLHEAD PROTECTION CODE

7.38.010 Title
7.38.020 Purposes and legislative findings
7.38.030 Definitions
7.38.040 Jurisdiction
7.38.050 Severability
7.38.060 Sovereign immunity
7.38.070 Effective date
7.38.080 Administration
7.38.090 Sanitary Control Areas
7.38.100 Wellhead Protection Capture Zones
7.38.110 Enforcement

7.38.010 Title. This Title shall be known as the Wellhead Protection Code.

7.38.020 Purposes and legislative findings.

A. The Tribal Council makes the following findings, and directs that this Code be interpreted and understood in a manner that is consistent with these findings:

1. The Tribal Council finds that wellhead protection is a proactive approach to managing groundwater supplies by preventing contaminants from entering recharge areas for water supply wells that serve the Tribal community. Protecting wellheads involves knowing the location and boundaries of the recharge areas; identifying any potential sources of contamination in the recharge areas; controlling those potential sources to prevent the release of contaminants; and, controlling future land use in the recharge areas to prevent activities that are known to threaten groundwater quality;
2. The Tribal government has inherent authority to govern wellhead protection, which is central to the Squaxin Island Tribe's health, welfare, economic security, culture and existence as an independent political community;
3. The Tribe and its agencies, commissions, departments and businesses, and respective employees and agents, shall coordinate their activities to ensure wellhead protection; and
4. This Code shall be liberally construed in a manner that is consistent with the findings and purposes herein.

B. The purposes of this Code are, consistent with the Tribal Council's findings and policy directives:

1. To promote the health, safety, and general welfare of the Squaxin Island community by ensuring an adequate quality and quantity of drinking water for its residents, institutions and businesses;
2. To preserve and protect existing and potential sources of drinking water supplies;
3. To conserve the Tribe's natural resources; and
4. To prevent temporary and permanent contamination of the environment.

7.38.030 Definitions. The following terms when used in this Code shall have the following meanings:

“Code” means this Wellhead Protection Code, Chapter 7.38.

“Department” means the Tribe’s Department of Community Development and Planning.

“Hazardous materials” means any substance or mixture of physical, chemical, biological, or radiological characteristics posing a significant threat to water supplies or other hazards to human health or the environment if such substance or mixture were discharged to land or water on or near Tribal lands. Hazardous materials include, without limitation, gasoline, diesel, used motor oil, heating oil, cleaning products, pesticides, herbicides, and fertilizers, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous by the Environmental Protection Agency's regulations; and also such products as solvents and thinners in quantities greater than those associated with normal household use.

“Person” means a natural person or entity, but excludes the Tribe. For purposes of enforcement, the term “person” shall exclude a Tribal employee acting in good faith within the scope of their employment, or a contractor or agent of the Tribe acting in good faith within the scope of their contract.

“Sanitary Control Area” means the area within the 100-foot radius surrounding a Tribal production well, as indicated in Figures 1 and 2 that are part of this Code and are on file with the Department.

“Tribe” or “Tribal” means the Squaxin Island Tribe and its enterprises, agencies, departments and commissions.

“Tribal lands” means "Indian country" as consistent with the meaning in 18 U.S.C. § 1151:

1. All land and waters within the limits of the Squaxin Island Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the Reservation;

2. All Indian allotments or other lands held in trust for a Squaxin Island Tribal member or the Tribe, the Indian titles to which have not been extinguished, including rights-of-way running through the same, as well as all lands owned by the Tribe in fee regardless of location; and
3. Land leased or owned by the Tribe or its wholly-owned entities.

“Tribal production well” means a well that is operated and maintained by the Tribe for the purpose of producing water for the primary purpose of drinking water, but also may be used for other purposes, including irrigation and maintenance.

“Wellhead Protection Capture Zone” indicates an area(s) in Figures 1 and 2, and that show specified travel times of groundwater to a Tribal production well, and is used to develop wellhead protection areas. If pollution enters the groundwater “upstream” of a production well, the delineated zone indicates how many years it may take for the pollution to reach the production well.

7.38.040 Jurisdiction.

- A. Persons applied. The provisions of this Code shall apply to all persons whenever they are either acting under the Tribe’s authority or acting in a manner that could affect a Tribal production well.
- B. Subjects Applied. This Code shall apply to the full extent of the Tribe’s sovereign jurisdiction.
- C. Deemed to Consent. Any person acting under Tribal authority, or acting in a manner that could adversely affect a Tribal production well, shall be deemed thereby to have consented to the following: (1) to be bound by the terms of this Code; (2) to be subject to administrative processes set forth in this Code; (3) to the exercise of civil and criminal jurisdiction by the Tribal Court over said person in legal actions arising pursuant to this Code; and (4) to detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this Code.
- D. The Tribal Court has jurisdiction to hear and decide violations of this Code, and to order the remedies described herein.

7.38.050 Severability. If any portion of this Code is ruled invalid by a court having jurisdiction, that portion shall cease to be operative but the remainder of this Code shall continue in full force and effect.

7.38.060 Sovereign immunity. Nothing in this Code shall be construed as a waiver of the sovereign immunity of the Tribe, or of its enterprises, agents, employees or officials.

7.38.070 Effective date. This Code shall become effective on January 27, 2022.

7.38.080 Administration. Except as otherwise provided in this Code and other Tribal codes, all authority to implement and regulate under this Code shall be vested in DCDP.

7.38.090 Sanitary Control Areas

A. Establishment of Sanitary Control Areas.

1. Sanitary Control Areas are hereby established for the Tribe's two production wells that exist at the effective date of this Code, as shown in Figures 1 and 2.
2. Revised and new Sanitary Control Areas may be established by Code amendment.

B. Prohibitions in the Sanitary Control Areas. The following items and uses are prohibited within Sanitary Control Areas:

1. Storing vehicles, including lawn mowers;
2. Storing or using hazardous materials, including gasoline, diesel, used motor oil, heating oil, cleaning products, pesticides, herbicides, and fertilizers;
3. Landfills and dumpsters;
4. Sewer lines and septic systems;
5. Wastewater spray irrigation;
6. Cemeteries;
7. Animal waste, pens, feed lots or dead animals; and/or
8. Unused and abandoned wells.

C. Exceptions to prohibitions in the Sanitary Control Area. Items and uses listed in section 7.38.090.B that exist as of the Code's effective date may remain for five years, after which time shall be removed or rendered inoperative, as applicable.

7.38.110 Wellhead Protection Capture Zones

A. Establishment of Wellhead Protection Capture Zones.

1. Six-month, one-year and ten-year Wellhead Protection Capture Zones are hereby established for the Tribe's two production wells that exist at the effective date of this Code, as shown in Figures 1 and 2 that are part of this Code.
2. Revised and new six-month, one-year and ten-year Wellhead Protection Capture Zones may be established by Code amendment.

B. Prohibitions in the Wellhead Protection Capture Zones.

1. The following items and uses are prohibited within the six-month and one-year Wellhead Protection Capture Zones:
 - a. Land spreading disposal facilities that apply sludges or other solid wastes onto or into the soil.
 - b. Agricultural stockyards and feedlots involving the raising or keeping of farm animals;
 - c. Gas stations, petroleum products refinement, reprocessing, and liquid petroleum products pipelines;
 - d. Automobile wrecking yards;
 - e. Wood waste landfills, which consist of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps;
 - f. Dry cleaners; and
 - g. Wastewater treatment plants.
2. The following items and uses are prohibited within the designated six-month, and one-, five- and ten-year Wellhead Protection Capture Zones:
 - a. Landfills (municipal sanitary solid waste and hazardous materials);
 - b. Hazardous materials transfer, storage and disposal facilities;
 - c. Wood and wood products preserving; and
 - d. Chemical manufacturing.

C. Exemptions from prohibitions in the Wellhead Protection Capture Zones. The following exist as of the Code's effective date and are exempted from the prohibited items and uses:

1. The Tribe's wastewater treatment plant;
2. Fuel depot next to the Tribe's tobacco factory; and
3. Alta Forest Products cedar mill.

7.38.110 Enforcement

- A. Complaints. A written complaint alleging the presence of a nuisance or other violation of this Code may be filed with the Tribal Administrator, who will then forward it to the Department.
- B. Investigation. The Department, upon any complaint of any person or upon its own information, may investigate, access and sample the area as needed with any needed assistance from Tribal law enforcement officer(s) to determine whether or not this Code has been violated.
- C. Informal action. Upon determining this Code has been violated, the Department will endeavor to informally resolve the problem, but has discretion to proceed directly to formal enforcement action on a case-by-case basis.
- D. Cleanup.
 - 1. Authorized Tribal employees and/or contractors may enter land and/or premises in order to perform any actions necessary to resolve any immediate threat to human health.
 - 2. The Tribe may bill the responsible person for the cost of the cleanup and disposal.
- E. Order of Abatement.
 - 1. The Department may issue a citation to the responsible person(s). The citation shall include: (i) the violation; (ii) remedies necessary to resolve the violation; and (iii) a deadline for remedying the problem.
 - 2. When the responsible person(s) fails to timely remedy the problem, the Department may seek a court-issued order or judgment.
- F. Judgment. A court-issued order or judgment may do one or more of the following to ensure that the Tribal Council's intent in this Code is fulfilled:
 - 1. Order the responsible person(s) to abate the violation or, if the Tribe requests, allow the Tribe to remedy the violation;
 - 2. Allow the Tribe to enter the land and/or premises and perform the action(s) necessary to immediately abate the violation;
 - 3. Order the responsible person(s) to reimburse and/or pay costs, expenses and/or penalties, through a payment plan or not. The Court may order such reimbursements or payments out of per capita payments or through garnishment; and/or

4. Grant any other relief provided in this Code or allowed in law or equity.

Any judgment may be immediately executed, and court judgments and orders shall be enforced by Tribal law enforcement.

- G. On a case-by-case basis, the Tribe may assist the responsible party with abating, removing, transporting and/or otherwise disposing of solid waste.
- H. Civil penalties. Any person found by the Tribal Court to have violated any provision of this Code may be subject to a civil penalty of not more than two thousand dollars (\$2,000.00) for each violation.
- I. Criminal penalties. Any person found by the Tribal Court to have violated any provision of this Code with the requisite intent may be subject to a criminal penalty of not more than five thousand dollars (\$5,000.00) for each violation.

2022-01-27 FINAL FINAL Resolution - Wellhead Protection Code-combined

Final Audit Report

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